

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

JASON DAVIS and
JENNIFER DAVIS,

Plaintiffs

v.

CHARMAINE McGUFFEY, et. al.

Defendants,

: Case No. 1:24-cv:0202

: Judge: Barrett

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DEFENDANTS' MOTION FOR LEAVE TO FILE AN AMENDED ANSWER
INSTANTER

Defendants Hamilton County, Sheriff Charmaine McGuffey, and Jay Gramke move this Court for leave to file an Amended Answer *Instanter*. A Memorandum in Support is attached.

Respectfully submitted,

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HAMILTON COUNTY, OHIO

/s/Matt Miller-Novak

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TRIAL ATTORNEYS FOR DEFENDANTS

MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE

This is a case about a former Hamilton County deputy who keeps causing his own economic harm. Jason Davis filed a First Amendment retaliation case against Defendants Hamilton County, Sheriff McGuffey, and Jay Gramke. Jason Davis's primary allegations are that he was denied a special placement on a narcotics unit because of his online speech. (See Complaint, generally). Jason Davis quit his job with the County. (Id.) Nonetheless, Jason Davis is seeking the economic consequences of his own decision to quit, such as back pay after he quit, pension benefits he lost because he quit, and front pay. (Id.) Recently, the County offered to reinstate Jason Davis to his former position and attempt to provide Jason Davis with a corporal position upon his reinstatement. (See the Declaration of Pete Stckpole attached to this Motion). Jason Davis rejected both offers of reinstatement. (Id.) The most rejection occurred on September 5, 2025. (Id.)

Leave to amend a pleading shall be freely given "when justice so requires." *Seals v. GMC*, 546 F.3d 766, 770 (6th Cir. 2008). To determine whether justice so requires, the Court may analyze several factors, such as: (1) undue delay in filing; (2) lack of notice to the opposing party; (3) bad faith by the moving party; (4) repeated failure to cure deficiencies by previous amendment; (5) undue prejudice to the opposing party; and (6) futility of the amendment. *Wade v. Knoxville Utils. Bd.*, 259 F.3d 452, 459 (6th Cir. 2001).

Recently, The Hamilton County Sheriff's Office offered Jason Davis two separate unconditional offers of reinstatement to return to his former position and/or even receive the corporal position he complains he desired. (Stackpole Declaration). Jason Davis rejected both unconditional offers of reinstatement. (Id.) In addition to tolling Jason Davis's economic damages as a matter of law, these rejections potentially implicate Davis's failure to mitigate his alleged economic damages. Plaintiff Davis's rejections of reinstatement occurred within the last month,

and the reinstatement offers occurred before his deposition and the County's FRCP 30(b)(6) deposition, so Plaintiffs have had the opportunity to perform discovery on these reinstatement offers. Defendants now seek to leave to amend their Answer to add an affirmative defense to address Jason Davis's mitigation of his claimed economic damage.

Courts liberally permit amendments when they are not made with the intent to delay or to prejudice the other party. Here, these reinstatement offers-at-issue just occurred, and the second offer was just rejected within the last week, so there is no delay. Moreover, this amendment will not prejudice the Plaintiffs. In *Seals*, the Court allowed the Defendants to amend their pleading even after Motions for Summary Judgment had been briefed. (see *Supra* at 770-71). Here, Defendants were able to depose both Chief Kettelman and Hamilton County regarding these reinstatement letters.

Accordingly, this Court should permit Defendants to amend their Answer to add the defense of mitigation of damages.

Respectfully submitted,

CONNIE PILLICH
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CERTIFICATE OF SERVICE

I certify that this Motion was served on Plaintiffs' Counsel using this Court's electronic filing system on this 10th day of September 2025.

/s/ Matt Miller-Novak